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Alaska Mining Statutes

Sec. 43.65.010. Mining license.

(a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the department. All new mining operations are exempt from the tax levied by this chapter for three and one-half years after production begins. The tax exemption granted to new mining operations does not extend or apply to the mining of sand and gravel.

(b) The Department of Natural Resources shall certify to the department the date upon which production begins, and the department shall issue a certificate of exemption to the producer accordingly.

(c) The license tax on mining is as follows: upon the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state

over \$40,000 and not over \$50,000 3 percent

over \$50,000 and not over \$100,000 \$1,500 plus

5 percent of the excess over

\$50,000

over \$100,000 \$4,000 plus

7 percent of the excess over \$100,000.

(d) Where mining operations are conducted in two or more places by one person the operations are considered a single mining operation and the tax under this chapter is computed upon the aggregate income derived from all the mining operations. The lessor of a mine operated under a lease is considered to be engaged in mining within this chapter, and the royalties received by the lessor are considered to be the net income of the lessor's mining operations. If the lessor receives royalties from more than one mine or mining operation, the tax payable under this chapter by the lessor is computed upon the aggregate royalties received by the lessor from all the mines or mining operations as though they were a single mining operation.

(e) The allowance for depletion included as an allowable deduction from gross income is a percentage of the gross income from the property during the taxable year, excluding from the gross income an amount equal to the rents or royalties paid by the taxpayer in respect to the property, as follows:

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(1) coal mines: 10 percent;

(2) metal mines, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, varite, ball and sagger clay, or rock asphalt mines and potash mines or deposits: 15 percent; and

(3) sulphur mines or deposits: 23 percent.

(f) The allowance for depletion may not exceed 50 percent of the net income of the taxpayer, computed without allowance for depletion, from the property, except that in no case may the depletion allowable be less than it would be if computed on a reasonable cost basis.

(g) Deductions that are not directly attributable to particular properties or processes shall be fairly allocated. To illustrate: If the taxpayer engages in activities in addition to mineral extraction in the state and to ordinary treatment processes, deductions for depreciation, taxes, general expenses, and overhead, which cannot be directly attributed to a specific activity, shall be fairly apportioned between (1) the mineral extraction and ordinary treatment processes, and (2) the additional activities, taking into account the ratio which the operating expenses directly attributable to the mineral extraction and ordinary treatment processes bear to the operating expenses directly attributable to the additional activities. If more than one mineral property is involved, the deductions apportioned to the mineral extraction and ordinary treatment processes shall, in turn, be fairly apportioned to the several properties taking into account their relative production.

(h) Taxes upon royalties shall be paid by the taxpayer receiving the royalties and no deduction, excepting depletion, is allowed.

(i) A license issued under this section must include

(1) the name and address of the licensee;

(2) the nature or type of mining activity to be conducted; and

(3) the year for which the license is issued.

Sec. 43.65.018. Mining business education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a person engaged in the business of mining in the state is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

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(2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991]*.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#), [21.89.075](#), [AS 43.20.014](#), [AS 43.55.019](#), [AS 43.56.018](#), [AS 43.75.018](#), or [AS 43.77.045](#), exceed \$150,000.

Sec. 21.89.070. Insurance tax credit for gifts to colleges

(a) A taxpayer is allowed a credit against the tax due under [AS 21.09.210](#) or [AS 21.66.110](#) for cash contributions for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, that are accepted by a nonprofit, public or private, Alaska two-year or four-year college or university accredited by a regional accreditation association or that are accepted by an Alaska university foundation that supports a university or college that could receive a contribution for which a taxpayer may obtain a credit under this section. The amount of the credit is the lesser of

(1) an amount equal to

(A) 50 percent of contributions of not more than \$100,000; and

(B) 100 percent of the next \$100,000 of contributions; or

(2) 50 percent of the taxpayer's tax liability under this title.

(b) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(c) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under more than one provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.075](#), [AS 43.20.014](#), [AS 43.55.019](#), [AS 43.56.018](#), [AS 43.65.018](#), [AS 43.75.018](#), or [AS 43.77.045](#), exceed \$150,000.

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(d) A contribution allowed as a tax credit under this section is not subject to [AS 21.09.270](#).

Sec. 21.89.071. Insurance tax credit for gifts to Alaska veterans' memorial endowment fund. [Repealed, Sec. 25 ch. 46 SLA 2002].

Repealed or Renumbered

Sec. 21.89.075. Insurance tax credit for gifts to the Alaska Fire Standards Council.

(a) For cash contributions prequalified under (d) of this section and made for fire services programs to the Alaska Fire Standards Council established under [AS 18.70.330](#), a taxpayer is allowed a credit against the tax due under [AS 21.09.210](#) that is imposed on insurance that includes coverage for losses due to fire.

(b) The amount of the credit allowed to a taxpayer under (a) of this section is the lesser of

(1) an amount equal to

(A) 50 percent of contributions of not more than \$100,000; and

(B) 100 percent of the next \$100,000 of contributions; or

(2) 50 percent of the taxpayer's tax liability under this title.

(c) A contribution claimed by a taxpayer as a credit under this section may not

(1) be claimed as a credit under more than one provision of this title;

(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#), [AS 43.20.014](#), [AS 43.55.019](#), [AS 43.56.018](#), [AS 43.65.018](#), [AS 43.75.018](#), or [AS 43.77.045](#), exceed \$150,000; or

(3) be claimed as a credit unless the contribution qualifies for the credit under (d) of this section.

(d) A taxpayer may not claim a contribution as a credit under (a) of this section unless the taxpayer applies to the director for prequalification of the contribution as a tax credit and receives written notice from the director that the contribution prequalifies for the tax credit described under this section. The director shall allow prequalified tax credits for contributions under this section in the order that the director receives applications by taxpayers and may not provide notice of prequalification if the taxpayer's contribution would cause the total contributions made by all taxpayers during the calendar tax year to exceed \$300,000.

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(e) A contribution allowed as a tax credit under this section is not subject to [AS 21.09.270](#).

[Sec. 43.20.014. Income tax education credit](#)

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a taxpayer is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991]*.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title;

(2) also be allowed as a deduction under 26 U.S.C. 170 against the tax imposed by this chapter; and

(3) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#), [21.89.075](#), [AS 43.55.019](#), [AS 43.56.018](#), [AS 43.65.018](#), [AS 43.75.018](#), or [AS 43.77.045](#), exceed \$150,000.

Sec. 43.20.015. Individual tax credit. [Repealed, Sec. 10 ch 1 SSSLA 1980].

Repealed or Renumbered

Sec. 43.20.016. Sharing of corporate income tax revenue with municipalities. [Repealed, Sec. 88 ch 74 SLA 1985].

Repealed or Renumbered

Sec. 43.20.017. Individual tax exemptions. [Repealed, Sec. 10 ch 1 SSSLA 1980].

[Sec. 43.55.019. Oil or gas producer education credit](#)

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to

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endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a producer of oil or gas is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991]*.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#)_, 21.89.075, [AS 43.20.014](#)_, [AS 43.56.018](#)_, AS 43.65.018, [AS 43.75.018](#)_, or [AS 43.77.045](#)_, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year.

[Sec. 43.56.018. Oil or gas property education credit](#)

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, the owner of property taxable under this chapter is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991]*.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

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(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#), 21.89.075, [AS 43.20.014](#), [AS 43.55.019](#), AS 43.65.018, [AS 43.75.018](#), or [AS 43.77.045](#), exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year.

Sec. 43.56.019. Alaska veterans' memorial endowment fund contribution credit.
[Repealed, Sec. 25 ch 46 SLA 2002].

[Sec. 43.75.018. Fisheries business education credit](#)

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a person engaged in a fisheries business is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991].*

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#), 21.89.075, [AS 43.20.014](#), [AS 43.55.019](#), AS 43.56.018, [AS 43.65.018](#), or [AS 43.77.045](#), exceed \$150,000.

Sec. 43.75.019. Alaska veterans' memorial endowment fund contribution credit.
[Repealed, Sec. 25 ch 46 SLA 2002].

[Sec. 43.77.045. Fisheries resource landing tax education credit](#)

(a) In addition to the credit allowed under [AS 43.77.040](#), for cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two- year or four-year

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college accredited by a regional accreditation association, a person engaged in a floating fisheries business is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(c) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under [AS 21.89.070](#), [21.89.075](#), [AS 43.20.014](#), [AS 43.55.019](#), [AS 43.56.018](#), [AS 43.65.018](#), or [AS 43.75.018](#), exceed \$150,000.

*Sec. 43.77.046. Alaska veterans' memorial endowment fund contribution credit.
[Repealed, Sec. 25 ch 46 SLA 2002].*

Repealed or Renumbered

Sec. 43.77.050. Separate accounting.

[Sec. 43.65.020. Taxpayer's duties.](#)

(a) A person subject to tax under this chapter shall make a return stating specifically the items of gross income from the property, including royalty received and the deductions and credits allowed by this chapter and the exploration incentive credit authorized by AS 27.30, and other information for carrying out this chapter that the department prescribes. The return must show the mining license number and must be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn falsification in the second degree. If receivers, trustees, or assigns are operating the property or business, they shall make returns for the person engaged in mining, or the recipient of royalty in connection with mining property. The tax due on the basis of the returns shall be collected in the same manner as if collected from the person of whose business they have custody and control. In a tax year in which a taxpayer applies against the tax levied under this chapter the exploration incentive credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit the accounting of mining operation activities form required by AS 27.30.030(b).

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(b) A return made on the basis of the calendar year shall be made before May 1 of the next year. A return made on the basis of a fiscal year shall be made before the first day of the fifth month of the next fiscal year.

(c) The department may grant a reasonable extension of time for filing returns, under regulations adopted by it. Except in the case of a taxpayer going abroad, an extension may not be made for more than six months.

(d) A taxpayer's return shall be made to the department at Juneau. A taxpayer shall make a return either on a calendar year or fiscal year basis, in conformance with the basis used in making the taxpayer's return for federal income tax purposes.

(e) The total amount of tax imposed by this chapter shall be paid on the 30th day of April of the next calendar year, or, if the return is made on the basis of the fiscal year, then on the last day of the fourth month of the next fiscal year.

(f) Every person prosecuting or attempting to prosecute or engaging in the business of mining in the state shall comply with the department's regulations and shall keep such records, give such statements under oath, and make such returns as the department prescribes.

(g) When the department considers it necessary, it may require a person, by notice served upon the person, to make a return, give statements under oath, or keep records as it considers sufficient to show whether or not the person is liable to tax under this chapter. If a person fails to file a return at the time prescribed by law or regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from its own knowledge and from such information as it can obtain through testimony or otherwise. A return so made and subscribed by the department is prima facie good and sufficient for all legal purposes.

Sec. 43.65.030. Application for renewals.

Application for renewal of a mining license shall be made before May 1 of each year.

Sec. 43.65.040. Limitation. [Repealed, Sec. 4 ch 94 SLA 1976. For current law, see [AS 43.05.260](#)].

Repealed or Renumbered

Sec. 43.65.050. Violations and penalties. [Repealed, Sec. 4 ch 94 SLA 1976; Sec. 3 ch 166 SLA 1976; Sec. 45, 46 ch 113 SLA 1980. For current law, see [AS 43.05.220](#) and [43.05.290](#)].

Repealed or Renumbered

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Sec. 43.65.060. Definitions.

In this chapter, unless the context otherwise requires,

- (1) "gross income from property" means the gross income from mining in the state;
- (2) "mining" means an operation by which valuable metals, ores, minerals, asbestos, gypsum, coal, marketable earth, or stone, or any of them are extracted, mined, or taken from the earth; "mining" includes the ordinary treatment processes normally applied by mine owners or operators to obtain the commercially marketable product, but does not include the extraction or production of oil and gas;
- (3) "net income of the taxpayer (computed without allowances for depletion) from the property" means the gross income from the property, less allowable deductions attributable to the mineral property upon which the depletion is claimed and the allowable deductions attributable to ordinary treatment processes insofar as they relate to the product of the property, including overhead and operating expenses, development costs properly charged to expense, depreciation, taxes, losses sustained, etc., but excluding allowances for depletion, and deductions for federal income taxes, or for the tax imposed by this chapter;
- (4) "new mining operations" means mining operations which began production after January 1, 1953, or which have not been liable to pay a mining license tax under this chapter on net income since January 1, 1948;
- (5) "ordinary treatment processes" includes
 - (A) in the case of coal: cleaning, breaking, sizing, and loading for shipment,
 - (B) in the case of sulphur: pumping to vats, cooling, breaking, and loading for shipment,
 - (C) in the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and minerals which are customarily sold in the form of crude mineral product: sorting, concentrating, and sintering to bring to shipping grade and form, and loading for shipment, and
 - (D) in the case of lead, zinc, copper, gold, silver, platinum metals or fluorspar ores, potash and ores which are not customarily sold in the form of the crude mineral product: crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but excluding electrolytic deposition roasting, thermal or electric smelting or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of a product from the ore, including the furnacing or quicksilver ore;
- (6) "production" means the date on which the initial shipment of products from mining operations is made.

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Alaska Administrative Code

15 AAC 65.010. When license is required

✚ (a) Except as provided in (b) of this section, a person engaged in one or more of the following activities in the state is in the business of mining and shall obtain a mining license:

- (1) a person owning and operating a mining property;
- (2) a person owning a mining property and receiving lease or royalty payments based on production from the property;
- (3) a person leasing a mining property from another person and operating the property;
- (4) a person possessing a mineral interest, whether an economic or a production interest, in a producing property, including royalty, working or operating interests, net profits, overriding royalties, carried interests, and production payments;
- (5) a person who is temporarily exempt from taxation under [AS 43.65.010](#) (a).

(b) The following persons are not in the business of mining and are not required to obtain a mining license:

- (1) a person whose mining activities are restricted to the holding of property for exploration to locate and delineate mineral deposits or for future development;
- (2) a person who holds mineral interests described in (a)(4) of this section in undeveloped and non-producing properties;
- (3) a person whose sole mining activity in the state consists of extracting sand, gravel, rock, or fill material from federal, state, or municipal land, if the material is to be used exclusively by that person for public construction projects or for personal use, and is not held for resale.

(c) A mining license must be obtained for each mining operation conducted in this state. A person owning several mining properties that constitute a single mining operation may apply for one license.

(d) The following examples illustrate when a mining license is required:

- (1) Individuals "A" and "B" form a partnership, AB Company, to develop and mine properties P1, P2, and P3. Property P1 is a fully developed and operating placer mine. Property P2 is a non-producing patented mining claim that the company intends to explore, and property P3 will be a dredging operation but is currently in the developmental stage. "A" and "B", as individuals, are not required to obtain separate

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licenses so long as neither is receiving a royalty from the producing property. AB Company must obtain separate mining licenses for properties P1 and P3. A license is not required for property P2 because it is not in the developmental or operational stages.

(2) Corporation D has acquired operating interests in 16 coal leases in various stages of development. All leases are connected geographically and the company produces coal from several of the leases. Individual "E" possesses a royalty interest in one of the producing leases and receives an annual payment from Corporation D. Individual "F" possesses a royalty interest in a non-producing lease that is currently not being developed. Individual "F" receives an advance royalty from this lease. Corporation D may apply for one mining license to apply to all producing coal leases. Individual "E" must apply for a mining license because "E" is receiving royalties from a producing mining property in the state. Individual "F" must apply for a license when production begins from mining property in which "F" holds an economic interest.

(3) Individual "G" owns and operates property P4, a producing placer mine in southeast Alaska, receives a royalty from property P5, a mineral interest "G" leased to another company, is exploring for minerals on property P6, unpatented state land near Fairbanks, and is developing property P7, a potential placer mine near Anchorage. Individual "G" must obtain a separate license for properties P4, P5, and P7 because each is a separate mining operation and is in either the developmental or operational phase. A license is not required for property P6 because it is in the exploratory phase of development.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

15 AAC 65.020. Mining license application and renewal

✚ (a) A person required to obtain a license by [AS 43.65.010](#) and 15 AAC 65.010 shall file an application for a license on a form provided by the department, except that a placer miner may file the annual Placer Mining Application. The following information must be provided:

- (1) applicant's name;
- (2) mailing address;
- (3) federal employer identification number (EIN) or social security number (SSN);
- (4) year for which the license is requested;
- (5) location of operation, i.e., creek, property, recording district;

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- (6) the date on which production first began;
 - (7) the name and address of the owner of the property, if the property is being leased by the applicant;
 - (8) the serial number of the lease or sale, if applicable, as assigned by the Department of Natural Resources;
 - (9) the nature or type of mining activity to be conducted; and
 - (10) other information required by the department.
- (b) Application for an initial mining license must be made on or before the time the mining operation enters the developmental phase.
- (c) A license expires on April 30 of each year and must be renewed by filing a renewal application before May 1, on a form provided by the department.
- (d) Upon receipt of an application, the department will issue a mining license to the applicant.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.030](#)

[15 AAC 65.030. Returns](#)

- ✚ (a) Except as provided in (c) of this section, each license holder, including a license holder temporarily exempt from taxation under [AS 43.65.010](#) (a), shall file a mining license return on a form provided by the department. A person receiving gross income from more than one licensed mining property shall report that income on a single return.
- (b) For each person required to file a return, the mining license tax year is the same as that person's tax year for federal income tax purposes. The mining license return must be filed before the first day of the fifth month following the end of the applicable tax period.
- (c) Each joint venture member which was elected not to be treated as a partnership for purposes of sec. 761 of the Internal Revenue Code 26 U.S.C. 761 may include its share of joint venture income and expenses on its separate mining license return.

✚ **History:** Eff. 8/9/86, Register 99

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⛶ **Authority:** [AS 43.05.080](#)

[AS 43.65.020](#)

15 AAC 65.040. Extensions

⛶ (a) Upon application, the department will, in its discretion, grant an extension of time to file a mining license return.

(b) An application for an extension of time for filing a return must be filed with the department no later than the date the return is due, and must include a complete statement of the reasons for the request for an extension. A copy of the approved extension request must be filed with the mining license tax return.

(c) An extension of time for filing the return does not extend the time for payment of the total amount of tax due.

⛶ **History:** Eff. 8/9/86, Register 99

⛶ **Authority:** [AS 43.05.080](#)

[AS 43.65.020](#)

15 AAC 65.100. Taxable income

⛶ For the purpose of computing the mining license tax due, taxable income is gross income as defined by 15 AAC [65.110](#) less deductible mining expenses as defined by 15 AAC [65.120](#) and 15 AAC [65.125](#).

⛶ **History:** Eff. 8/9/86, Register 99

⛶ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.060](#)

15 AAC 65.110. Gross income

(a) A person's gross income from a mining property in the state equals the sum of

(1) sale price or value actually received, including cash, credits, in-kind exchanges, and other valuable consideration for the mined materials;

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(2) advance royalty payments received; however, advance payments may not be included in gross income until the tax year in which the mined material to which the payments relate is actually extracted;

(3) production payments retained in a lease; and

(4) other royalty payments received from mining properties in the state, including royalty payments received in kind; if the payment is in kind, gross income includes the fair market value of the mined material on the date that payment is received.

(b) For the purposes of this section, the sales price of

(1) mined material sold in the state to an affiliate of the person is the greater of

(A) the cash value of the consideration given for the materials sold;

(B) the price attributable to the sale as entered on the person's books and records in accordance with generally accepted accounting principles; or

(C) fair market value;

(2) the person's inventory of mined material, retained by and put to personal use by the person, or transferred from the mining division to another division within the same corporate entity, is the greater of

(A) the price attributable to the mining division for the material as entered on the person's books and records in accordance with generally accepted accounting principles, or

(B) fair market value.

(c) If a person is engaged in a mining operation in the state and mined materials are commingled with non-mining materials to form a refined product such as asphalt paving, concrete, or jewelry, gross income includes the fair market value of the mined materials after they are mined and subjected to ordinary treatment processes but before incorporation into the finished product.

(d) If a person transports mined materials and products containing mined materials out of state before sale of the materials or products, gross income includes the fair market value of the materials before their exportation in the tax year exported, whether or not the mined materials are sold during that tax year.

(e) For the purpose of this section, "fair market value" must be determined by one of the following methods, except that, if fair market value cannot be fairly determined by the use of these methods, the person may request, or the commissioner will, in his or her discretion, require, the use of another method acceptable to the commissioner:

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(1) Fair market value may be computed by using the representative market or field price of materials after they are mined and subjected to ordinary treatment processes. "Representative market or field price" is the competitive sales price for ores or minerals of like kind and grade. If no Alaska market exists for a mined material, the representative market or field price is the United States or world market price for a similar kind and grade of resource.

(2) Fair market value may be computed by deducting from the out-of-state sales price of Alaska mined materials the

(A) ordinary and necessary costs incurred to apply non-mining processes to the mined materials before sale;

(B) ordinary and necessary costs incurred to transport the mined materials from the point of completion of ordinary treatment processes to its destination before sale;

(C) ordinary and necessary costs incurred out-of-state in further processing the mined materials to produce a marketable product; and

(D) out-of-state sales expense and other administrative costs incurred to bring the mined materials to the point of sale.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.060](#)

15 AAC 65.120. Deductible mining expenses; inventory costs

✚ (a) Except for a person permitted to compute federal net income using the cash basis method, a person shall inventory the costs of production in the state and deduct those costs at the time of sale, the time of export, or the time when the value of the mineral product is included in gross income for the purpose of calculating the mining license tax.

(b) In order to reflect mining net income accurately, both direct and indirect mining expenses must be included in the computation of costs to be inventoried, in a manner consistent with the person's federal income tax records, if the records are kept in a method consistent with generally accepted accounting principles and are consistent from year to year. Mining costs must be allocated to the product extracted during the tax year, whether sold during the tax year or in inventory at the close of the taxable year. Costs that must be accounted for in inventory include:

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(1) direct mining expenses that are costs incident and necessary to the extraction of mined materials and ordinary treatment processes, including

(A) direct labor costs that are specifically identified or associated with particular units of mined materials;

(B) mine costs incurred in severing and extracting the materials from the mine, pit, or ground;

(C) maintenance and repair of mining equipment and facilities directly associated with the mine operation and ordinary treatment processes;

(D) supplies used in the mining operation and ordinary treatment processes;

(E) payments made to holders of economic interests in the mining property, including royalties, production payments and net profits;

(F) depreciation on mining equipment, buildings, and other facilities engaged directly in extraction and ordinary treatment processes, computed in accordance with 15 AAC [65.125\(f\)](#) ;

(G) depletion as calculated in accordance with 15 AAC [65.125\(d\)](#) and (e);

(H) costs associated with transporting the mined materials through completion of ordinary treatment processes, except transportation costs to transport the resource out of the state.

(2) indirect mining expenses that are costs incident and necessary to extraction and ordinary treatment processes other than direct mining costs, including:

(A) insurance;

(B) general administrative and office expenses;

(C) rent;

(D) utilities;

(E) repair expenses;

(F) losses relating to casualty or theft to the extent uncompensated by insurance;

(G) employee benefits;

(H) taxes paid on Alaska operations, including severance, property, sales, use, and excise taxes.

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(c) If two or more properties are involved, indirect expenses allowed under 15 AAC 65.120(b) (2) must be allocated between the properties, based upon the ratio of each property's production during the tax year to the person's total production from the properties.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** AS 43.05.080

AS 43.65.010

AS 43.65.060

15 AAC 65.125. Deductible mining expenses; other expenses; depletion

✚ (a) Other expenses that cannot be inventoried are deductible when paid or accrued. These expenses must be allocated in accordance with (b) of this section, and include:

(1) except as provided in (2) and (3) of this subsection, interest expense paid or accrued in connection with the mining operation is deductible as a current operating expense;

(2) construction period interest expense, including all interest paid or accrued in connection with depreciable property to be used in the mining operation in the state, is to be capitalized and recovered through depreciation or amortization in accordance with the person's election for federal income tax purposes;

(3) interest expense paid or accrued by a consolidated business in connection with the mining operation in the state is deductible as follows:

(A) 100 percent of the interest on specific new borrowings made with the purpose, expressed at the time of the borrowing, of financing the mining operation in the state; specific new borrowings may not exceed the amount of accumulated expenditures made for fixed capital and working capital to finance the mining operation in the state;

(B) if no specific new borrowing is made to finance the mining operation in the state, the interest deduction may not exceed a portion of the total interest paid or accrued by the consolidated business; that portion is determined by multiplying the total interest by a fraction, the numerator of which is the cost of the taxpayer's real and tangible personal property in the state and the denominator of which is the cost of all real and tangible personal property of the business; in this subparagraph, "total interest paid or accrued by the consolidated business" does not include interest expense arising from intercompany obligations within the consolidated business except to the extent that the interest expense reflects a pass-through of interest on a third-party borrowing by the parent or other member of the consolidated business;

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(4) advertising expenses;

(5) Alaska corporate net income tax;

(6) salaries paid to officers and others for the performance of services that are incident and necessary to the person's business activities as a whole rather than to extraction and ordinary treatment processes;

(7) other expenses that are incident and necessary to the person's business activities as a whole rather than to extraction and ordinary treatment processes.

(b) For the purpose of expense allocation under (a) of this section,

(1) interest expense and taxes allowed under (a)(1) of this section are deductible to the extent that they relate to a person's mining activity in the state and are determined by multiplying total expenses by a fraction, the numerator of which is the person's direct mining expenses in the state and the denominator of which is the person's total direct expenses related to both mining and non-mining activities in the state;

(2) the expenses allowed under (a)(4) - (7) of this section are deductible to the extent they relate to mining activities in the state and are determined by multiplying the total expenses by a fraction, the numerator of which is the person's direct mining expenses in the state and the denominator of which is the person's total direct expenses related to both mining and non-mining activities.

(c) While a mining property is in the development stage, all development expenditures in excess of net income from the sale of mined materials must be included in the mine's basis and are recoverable through the depletion allowance. Development expenses incurred after the mine has reached the production stage are deductible as a current operating cost. The mine is considered to have passed from a development to a production stage when the principal activity of the mining property becomes the production of ore from the property rather than the development of the ore body before production.

(d) A deduction for depletion may be taken by a person for each economic interest held in an Alaska mining property; an economic interest is held when a person has acquired by investment any interest in a mineral in place and that person derives, under any form of legal relationship, income from the extraction of the mineral, to which the person must look for a return of capital.

(e) A percentage depletion allowance is permitted for each property described in [AS 43.65.010](#) (e), if the allowance is not less than if it were computed on a cost basis. If computed on a percentage basis, the depletion allowance may not exceed 50 percent of the person's mining net income as computed without the allowance for depletion. Cost depletion must be used for all other mineral types not described in [AS 43.65.010](#) (e), including sand and gravel.

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(f) In computing mining taxable income, depreciation expense on all mining equipment, buildings, and other facilities located in Alaska, is allowed as a deduction. A property's basis for computing depreciation is the adjusted basis of the asset for federal income tax purposes on the date the asset is placed in service in Alaska. Depreciation on mining assets may be computed using any of the methods allowed under secs. 167 and 168 of the Internal Revenue Code (26 U.S.C. 167 and 168). In place of the depreciation expense deduction, a person may elect to amortize the cost of pollution control facilities used in the mining operation in accordance with sec. 169 of the Internal Revenue Code (26 U.S.C. 169).

(g) Exploration costs, federal income taxes, taxes under this chapter, losses on the sale of mining equipment or properties, net operating losses and other capital losses are not deductible.

(h) If the allocation provisions of this section do not fairly represent the amount of the person's expenses paid or accrued in connection with the mining operation in the state, the person may petition the commissioner for the use of another method to effectuate an equitable allocation of the person's expenses.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.060](#)

[15 AAC 65.130. Tax rate](#)

✚ The following rates are applicable to the taxable income of a person subject to the mining license tax:

TAXABLE INCOME
TAX RATE

\$40,000 and under
no tax

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Over \$40,000 and not over \$50,000 of the	3 percent
income	entire taxable
Over \$50,000 and not over \$100,000 percent	\$1,500 plus 5
\$50,000	of the excess over
Over \$100,000 percent	\$4,000 plus 7
\$100,000.	of the excess over

15 AAC 65.200. Temporary exemption for new mining operation

✚ (a) As provided in [AS 43.65.010](#) (a), a new mining operation is exempt from the tax under [AS 43.65](#) for three and one-half years after production begins. The department will, in its discretion, suspend passage of the exemption period if mine production ceases for other than seasonal or ordinary shutdowns. Under [AS 43.65.010](#) (a), the tax exemption granted to new mining operations does not apply to the mining of sand and gravel.

(b) As provided in [AS 43.65.010](#) (b) and [15 AAC 65.210](#), the Department of Natural Resources will notify the department of the date on which production begins for each new mining operation. If the department determines that an operation qualifies as a new mining operation, the department will issue a certificate of exemption in accordance with [15 AAC 65.220](#).

(c) The department will consider the following factors in determining whether a person's operation is a new mining operation eligible for the three and one-half year exemption:

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(1) whether the person or a prior owner or operator of the property was liable to pay the mining license tax on net income from the property after January 1, 1948;

(2) the location of the operation in relation to other properties being operated by the person;

(3) the geological structure of the ore body in relation to other ore bodies the person mines;

(4) the mining techniques and technology used; and

(5) the extent to which the person is required to invest new capital, employ different personnel and use additional facilities to exploit the resource.

(d) A temporary exemption will be granted to a person making extensive capital additions or improvements, and to a person applying new mining methods and techniques to a property previously owned and operated by another person, but only if the previous mining operation has been closed, shut down, or abandoned for more than one mining season. An exemption will not be granted

(1) to a person who merely extends or expands an operation onto previously unmined properties, or

(2) when changes in ownership of an existing operation take place.

(e) The following examples illustrate eligibility for the three and one-half year tax exemption:

(1) Mining Company A has been a gold dredging operator for more than three and one-half years on three properties which it owns or leases. The properties are joined contiguously and lie within a single river valley. To extend its current operation, Company A acquires an additional lease which shares a common boundary with the other properties. Expanding the operation by developing and mining the additional leased property does not create a new mining operation eligible for the exemption.

(2) Company B has been conducting mining operations on 15 coal leases for 20 years. In 1985, the company sells the entire operation to Company C. Company C continues to operate on the properties and expands the operation by adding new equipment, including dredges, crushers, and bulldozers. Company C is not entitled to an exemption. A change in ownership of existing mining properties does not create a new mining operation.

(3) Company D owns and operates a hard rock gold mining operation on the southern side of Hurricane Ridge. This mine has been in production for 10 years. Company D acquired a lease for undeveloped gold mining properties on the northern side of Hurricane Ridge, completed development of the property, and began production on June 1, 1985. In anticipation of this new development, Company D made extensive capital

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expenditures, leased additional mining equipment and hired additional mining personnel. A geologist's study indicated that the gold bearing ore bodies on the north side of the hill are not part of a geological structure having any correlation with or similarity to the ore bodies on the south side. The distance between the two properties is 40 miles and is linked by a company-owned haul road. Although there is a road link and close proximity between the northern and southern properties, Company D is eligible for the exemption on the northern mining property because it made extensive capital expenditures for an operation on previously unmined property and hired additional personnel to operate the mine. The operation is not merely an extension of another ongoing operation.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.060](#)

15 AAC 65.210. Affidavit of initial production

✚ (a) In order to be granted a certificate of exemption by the department, the owner or operator of a new mining operation shall record, in the recording district in which the operation is located, a sworn affidavit of initial production showing the location of the new mining operation, the commodities produced, the names of the operators, and the new mining operation's date of initial production. The affidavit must be recorded on a form provided by the Department of Natural Resources, or on a substantially similar form, and must be recorded within 90 days after the date of initial production. Failure to record the affidavit timely may result in forfeiture of any right to the three and one-half year exemption from the mining license tax.

(b) For the purpose of determining the date of initial production, the Department of Natural Resources may examine the mining property and books, papers, records, and other documents relevant or material to initial production.

(c) Upon determination that production has begun on a new mining property, the Department of Natural Resources shall notify the department of:

- (1) the date of initial production;
- (2) the name of the person operating the mining property;
- (3) the type of metal, mineral, or other resource being extracted from the mining property; and
- (4) a legal description, lease number or other identifying name or characteristic of the property.

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(d) For purposes of this section, the date of initial production is generally considered the date initial shipment of mined materials is transported from the mine for sale or additional non-mining processing. Also, production is considered to begin on the date that the mined product is first exported outside this state. However, the transport and sale of a bulk sample does not in and of itself constitute the beginning of production.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.060](#)

15 AAC 65.220. Certificate of exemption

✚ (a) Upon receipt of notification of initial production from the Department of Natural Resources, the department will issue a certificate of exemption to a new mining operation, unless it determines, as provided by 15 AAC [65.200](#), that the operation does not qualify for the exemption.

(b) A certificate of exemption will be issued for a single mining operation. A certificate issued for a single mining operation will not exempt a person from tax on income received from other mining operations.

(c) A certificate of exemption issued for a mining operation temporarily exempts from the mining tax all persons receiving income from the property. For example, both the operator of a mining property and a royalty recipient are exempt from mining tax for the three and one-half year period.

(d) If the department determines that it will not issue a certificate of exemption, it will inform the applicant of its decision and the reason for making that decision. An applicant who disagrees with the decision may appeal that decision in accordance with [AS 43.05.240](#) and 15 AAC [05.001](#) - 15 AAC [05.050](#).

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** [AS 43.05.080](#)

[AS 43.65.010](#)

[AS 43.65.020](#)

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15 AAC 65.230. Composition of a mining operation

✚ (a) A mining operation consists of all operating and non-operating mineral deposit interests and may be comprised of one or more mining properties.

(b) In determining whether mining properties are part of the same mining operation, the department will consider whether the operation, in conducting mining activities on several mining properties, uses common personnel, supply and maintenance facilities, mining-related treatment processes, storage facilities, roads, pipelines and transportation equipment, and mining techniques and technology. The department will also consider the extent to which the mineral deposit interests comprise a common mining property.

✚ **History:** Eff. 8/9/86, Register 99

✚ **Authority:** AS 43.05.080

AS 43.65.010

15 AAC 65.240. Transition rules

✚ (a) The calendar or fiscal year tax period during which the exemption period described in 15 AAC 65.200 expires is the transition year.

(b) Mining net income subject to tax in a transition year is to be computed by an allocation formula. To determine taxable income, the entire taxable income in the transition year is multiplied by a fraction, the numerator of which is the number of days in the transition year falling outside the exemption period, and the denominator of which is the total number of days in the transition year.

(c) A mining operation that commenced production within three and one-half years before April 1, 1986 has 120 days after August 9, 1986 to record the affidavit required by 15 AAC 65.210. If a certificate of exemption is granted, the exemption period begins on the date of initial production.

✚ **History:** Eff. 8/9/86, Register 89

✚ **Authority:** AS 43.05.080

AS 43.65.010

AS 43.65.020

15 AAC 65.990. Definitions

✚ In this chapter, unless the context requires otherwise,

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- (1) "bulk sample" means the quantity of resource mined, gathered, taken, or otherwise accumulated as a specimen for the purpose of testing and analyzing the ore body before its development;
- (2) "consolidated business" means a corporation or group of corporations having more than 50 percent common ownership, direct or indirect;
- (3) "department" means the Department of Revenue;
- (4) "development expense" includes expenses paid or incurred after the determination that a deposit of mineral or ore is shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation;
- (5) "exploration expense" includes those expenses incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral paid or incurred before the beginning of development of the mine or other deposit;
- (6) "gravel" means a mixture of small stones and pebbles or pebbles and sand that will pass through a three-inch, and be retained on a No. 4 United States standard, sieve;
- (7) "mining operation" means a business enterprise associated, directly or indirectly, with developing, removing, extracting, moving, or taking from the earth, water, or under water, metals, ores, minerals, asbestos, gypsum, coal, marketable earth, sand, gravel, and any other mineral deposit, including the treatment processes described in sec. 63(c)(4) of the Internal Revenue Code (26 U.S.C. 613), and such treatment processes normally applied by mine owners or operators to obtain a commercially marketable product, but not including the extraction or production of oil and natural gas, or the harvesting of trees or other natural living, organic resources;
- (8) "mining property" means each separate interest owned by the taxpayer in each mineral deposit in each separate tract or parcel of land;
- (9) "person" means an individual, trust, estate, partnership, corporation, joint venture, or group or combination of these acting as a unit;
- (10) "place" means each geographically separate mining operation not aggregated with another;
- (11) "prosecute" means to begin to carry on, to undertake, or to institute an action;
- (12) "sand" means separate grains or particles of disintegrated rock, easily distinguished by the unaided eye, which is finer than gravel and coarser than dust but not large enough to constitute pebbles.

✚ **History: Eff. 8/9/86, Register 99**

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⛶ **Authority:** [AS 43.05.080](#)

[AS 43.65.060](#)